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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

04-CR-706(DGT)

U.S. Courthouse
Brooklyn, New York

-against-

TRANSCRIPT OF
MOTION

ABU BAKR RAHEEM,

June 20, 2008
10:00 a.m.

Defendant.

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BEFORE:

HONORABLE DAVID G. TRAGER, U.S.D.J.

APPEARANCES:

For the Government:

BENTON J. CAMPBELL, ESQ.
United States Attorney
271 Cadman Plaza East
Brooklyn, New York 11201

BY: SEAN T. HARAN, ESQ.
JAMES P. LOONAM, ESQ.
Assistant U.S. Attorneys

For the Defendant:

BOBBI C. STERNHEIM, ESQ.

For the NYPD:

FREDERICK W. VASSELMAN, ESQ.

Court Reporter:

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U.S. DISTRICT COURT E.D.N.Y.

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BROOKLYN OFFICE

HOLLY DRISCOLL, CSR
OFFICIAL COURT REPORTER

1 MS. STERNHEIM: Good morning, Judge.

2 MR. LOONAM: Good morning, Your Honor.

3 THE COURT: Why don't you step up.

4 THE CLERK: Now calling on motion to quash, United
5 States versus Abu Bakr Raheem, 04-CR-706.

6 Counsel, please state your appearances.

7 THE COURT: On an unrelated issue, did you send me
8 yet the redacted indictment?

9 MR. HARAN: Not yet.

10 MR. LOONAM: We'll do it when we get back.

11 THE COURT: Okay.

12 MR. VASSELMAN: Police Officer Frederick Vasselmann
13 from the New York City Police Department.

14 MR. LOONAM: Also present before the Court is James
15 Loonam and Sean Haran for the United States, Your Honor.

16 MS. STERNHEIM: And Bobbi C. Sternheim for Abu Bakr
17 Raheem.

18 THE COURT: All right. So, now that I know
19 something about the case, what were the subpoenas for?

20 MS. STERNHEIM: Let me just begin, Your Honor, I've
21 had a discussion with Mr. Vasselmann this morning and there's a
22 little bit of confusion and, unfortunately, I don't have my
23 book with the subpoenas but it was my understanding, and we
24 will cure this if he does not have a copy and I don't have a
25 copy, that subpoenas were served over a year ago, many had to

1 do with materials that we have now received that's 3500
2 material and I understood at that time that there was a
3 likelihood that we'd have such an argument but that is not the
4 subject of this.

5 What is the subject of this right now is a request
6 that the defense has made for files concerning the
7 investigation of the homicide of Leroy Patrick Cooke, that is
8 the father of Taz, Edward Cooke.

9 THE COURT: Right.

10 MS. STERNHEIM: As well as records, personnel
11 records concerning Mr. Cooke, Sr. who was a corrections
12 officer and information related to whether he was a
13 confidential informant for the Police Department we believe
14 after he left the employment of Corrections.

15 THE COURT: Okay.

16 MS. STERNHEIM: So, it is all related to the father
17 of Taz, Edward Cooke.

18 THE COURT: All right. So, now, what's the
19 relevance of that?

20 MS. STERNHEIM: Well, the following; one, we believe
21 that there is important information in those files that go to
22 our defense relative to participation of Taz. I would rather
23 not have to disclose all of that and I would be glad to --

24 THE COURT: The case has gone on pretty well and I
25 have a good idea what your defense is so I mean --

1 MS. STERNHEIM: Let me link it in a little.

2 THE COURT: Okay.

3 MS. STERNHEIM: You've heard testimony about an
4 individual named Ty Thomas, the corrections officer who
5 apparently was called by Taz on the day of the T-Rock murder.
6 He came with his children. Taz wanted to -- the testimony was
7 Taz wanted him for some kind of protection because he had a
8 legitimate gun. Does that ring a bell, Your Honor?

9 THE COURT: Yes.

10 MS. STERNHEIM: We believe that there's a connection
11 between Taz and Ty all leading back to his father as well as
12 potentially a connection with Mohammad.

13 THE COURT: So, the theory here is that it was a
14 personal revenge and unrelated to the drug deal?

15 MS. STERNHEIM: That is one element of it, as well
16 as relationships that Taz may have had to law enforcement.

17 Now, we're prepared to have Your Honor look at this,
18 you know, and decide whether any of it is relevant and we're
19 entitled to any of it. I'm not just asking for it to be
20 handed over to me. I understand that there are procedures
21 that need to be done but --

22 THE COURT: Before I impose that burden on myself,
23 when I have some understanding of what I'm looking for, I
24 still don't understand.

25 MS. STERNHEIM: We're looking for information as to

1 whether the father was a confidential informant.

2 THE COURT: And assuming he was, what follows from
3 that in light of the way this case has been tried? The
4 witness already -- one witness, I don't remember who,
5 testified that part of the motive, and that's what I thought
6 your legal defense would be, was that this was a personal
7 revenge for the killing of Taz's father.

8 MS. STERNHEIM: Yes, and vis-a-vis --

9 THE COURT: You have that testimony, so what do you
10 need more?

11 MS. STERNHEIM: You know, for thoroughness of doing
12 our defense we would like the opportunity to at least have
13 that information or at least have an answer to some of that
14 information.

15 THE COURT: All right. Let's divide it up. Let's
16 assume he's an informant, how does that do anything in light
17 of your defense?

18 MS. STERNHEIM: Well --

19 THE COURT: Either on facts or on the law?

20 MS. STERNHEIM: It has to do with our
21 cross-examination primarily of Taz.

22 THE COURT: Taz isn't going to testify.

23 MS. STERNHEIM: Well, he's unlikely to testify which
24 is a conversation I had with Mr. Haran yesterday.

25 THE COURT: Well, he's not testifying because

1 they're giving me only one more cooperator, I'm not going
2 through this forever.

3 MR. LOONAM: No, Your Honor, but if the defendant
4 testifies, we could have a rebuttal witness or if something
5 happens.

6 THE COURT: We'll worry about it then.

7 MS. STERNHEIM: I didn't want the Court to have to
8 deal with this issue at the eleventh hour, maybe the ninth
9 hour.

10 THE COURT: I will, I'm ready to deal with it at the
11 eleventh hour because I just think it is all unrealistic.

12 Go ahead, let's assume he's an informant. He
13 testifies and he admits it or he denies it and you want to
14 prove that it's true; what's the relevance?

15 MS. STERNHEIM: Well, it may have relevance to the
16 relationship that Taz had with law enforcement during the
17 course of this which we feel may be probative.

18 THE COURT: Of what? That's all I want, a proffer
19 whatever it would be probative of. Then I can look at the
20 record to see whether there's anything in there.

21 MS. STERNHEIM: Probative of the fact that Taz
22 basically had little involvement in a criminal sense with the
23 criminal justice system. We believe that his father's
24 relationship with people in the 79th Precinct and perhaps
25 elsewhere gave Taz an easy ride, this being the hardest ride

1 that he ever had which would perhaps give him motivation to be
2 saying some of the things that he's saying.

3 THE COURT: Okay. Well, at this point I don't think
4 this is going to happen.

5 Are you available in case it becomes necessary next
6 Thursday morning?

7 MR. VASSELMAN: Sure, Your Honor. I have to look on
8 the schedule. It shouldn't be a problem.

9 THE COURT: Could you just bring this file. I don't
10 think I'm ever going to look at it.

11 MR. LOONAM: Your Honor, we don't even know if there
12 is such a file yet. We're first going to identify whether or
13 not a file exists.

14 THE COURT: There must be a file about the murder of
15 the father.

16 MR. LOONAM: Oh, sure, but whether he's a CI.

17 MS. STERNHEIM: Presumably there may be information
18 relative to that in that file.

19 MR. LOONAM: There wouldn't be. It would be totally
20 separated out if he was a confidential informant.

21 MS. STERNHEIM: I understand but I would think that
22 in part of the investigation it may have come to the attention
23 of the investigating officers and there may be some reference
24 to that. If I'm wrong, I'm wrong.

25 THE COURT: Okay. Well, if you then could see

1 whether this might be true.

2 MR. VASSELMAN: Whether or not he is a CI, is that
3 what you want to find out?

4 THE COURT: Whether he was, the father.

5 MR. VASSELMAN: Your Honor, on this kind of
6 information I don't -- I mean I can look up his name and see
7 if he was a CI.

8 THE COURT: Okay.

9 MR. VASSELMAN: Okay.

10 THE COURT: He's dead.

11 MS. STERNHEIM: He's dead for 20 years.

12 MR. LOONAM: He was killed when Taz was 14 years old
13 I believe.

14 THE COURT: Could you just look and see if he was,
15 see if you see his name on the computer or whatever it is.

16 MR. VASSELMAN: Sure, no problem.

17 THE COURT: And if you could give a call or, Ezra,
18 have his number. He'll call you Wednesday night if it becomes
19 relevant. I don't think it will be.

20 MR. VASSELMAN: Not a problem.

21 MS. STERNHEIM: Your Honor, could we also request
22 that at least the file for the homicide be available should
23 there --

24 THE COURT: Yes, he'll have it available. I don't
25 know what relevance, again, it's going to have.

1 MR. LOONAM: And, Your Honor, just to give a little
2 comfort, I think -- the 3500 was turned over for Shelby
3 Henderson so I think in that 3500 there's also discussion for
4 the motive of the T-Rock murder including the fact that T-Rock
5 was held responsible for the murder of Taz's father. So,
6 there will be another witness who will testify that they could
7 bring this information out from.

8 THE COURT: All right.

9 Anything else with the police officer? I want to
10 deal with your latest letter.

11 MR. VASSELMAN: Your Honor, just to make it clear,
12 the information as to whether Mr. Cooke was a CI and his
13 homicide file?

14 THE COURT: That's all I want.

15 MR. VASSELMAN: You want that available by Thursday?

16 THE COURT: Yes.

17 MR. VASSELMAN: Okay.

18 THE COURT: But don't do anything. I don't want you
19 to have to make an unnecessary trip. If the government closes
20 and if his client doesn't testify, I don't see any -- and I
21 don't see it as being Brady in any way, so, all right.

22 THE COURT: Thank you.

23 (End of proceedings.)
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